

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SCOTT BISHINS and DARSHAN
HASTHANTRA, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CLEANS PARK, INC., ZACHARY
BRADFORD, and S. MATTHEW
SCHULTZ,

Defendants.

Case No. 1:21-cv-00511-LAP

JOINT 26(f) REPORT

Plaintiffs Scott Bishins and Darshan Hasthantra (collectively “Plaintiffs”), and Defendants CleanSpark, Inc., Zachary Bradford, and S. Matthew Schultz (collectively “Defendants”, Plaintiffs and Defendants are collectively the “Parties”), hereby jointly submit this Joint Report and Discovery Plan pursuant to Rule 26(f) and of the Federal Rules of Civil Procedure.

I. OBLIGATION OF COUNSEL TO CONFER

Pursuant to Fed. R. Civ. P. Rule 26(f), the Parties (through their counsel) conferred regarding the nature and bases of their respective claims and defenses, the nature and scope of anticipated discovery, a proposed plan for discovery, and a proposed case schedule. After a conference conducted on March 24, 2023, the Parties were able to reach agreement regarding various discovery-related matters and on a framework for a proposed case schedule.

II. PROPOSED CASE SCHEDULE AND DEADLINES

The Parties agree to the following discovery, class certification, and pretrial schedule:

Event	Date
Rule 26(a) Disclosures	May 24, 2023
Initial Request for Production of Documents Pursuant to Fed. R. Civ. P. 34	June 7, 2023
Substantial Completion of Document Production	December, 8, 2023
Amended pleading may be filed, and additional parties may be joined, without leave of Court	January 19, 2024
Deadline for service of Interrogatories	March 8, 2024
Deadline for service of Requests for Admission	March 22, 2024
Completion of Fact Discovery (including Depositions)	April 26, 2024
Motion for Class Certification Due	May 10, 2024
Opposition to Motion for Class Certification Due	July 12, 2024
Reply in Further Support of Motion for Class Certification Due	August 30, 2024
Initial Expert Reports Due For Party Who Bears Burden	October 18, 2024
Rebuttal Expert Reports Due	December 6, 2024
Reply Expert Reports Due	January 10, 2025
Request for Pre-Motion Conference Before Filing Summary Judgment Motions	January 24, 2025
Summary Judgment Motion Due	March 14, 2025
Summary Judgment Opposition Due	April 25, 2025
Summary Judgment Reply Due	May 23, 2025
Submission of Joint Pre-Trial Order	July 18, 2025
Final Pretrial Conference	August 22, 2025

The Parties reserve the right to modify the schedule above, either by agreement or upon showing of good cause.

III. PROPOSED DISCOVERY PLAN PURSUANT TO RULE 26(f)(3)

A. Disclosures Under Rule 26(a)

No changes in the form or requirement for disclosures under Rule 26(a) are needed at this time. Initial disclosures will be made on May 24, 2023.

B. Anticipated Subjects of Discovery

Plaintiffs anticipate that they will seek discovery, both upon Defendants and various third parties, into the following subjects:

- The pivot of CleanSpark's business model from energy production to cryptocurrency.

- The acquisition of ATL Data Centers, including any due diligence supporting the acquisition.
- The due diligence on Fastblock Minding conducted by Marathon Patent Group.
- Internal projections of a timeline to expand from 20MW to 50MW.
- Issues regarding CleanSpark's power capacity expansion.
- CleanSpark's use of third parties (e.g., Coinmint) and subsidiaries (e.g., CleanBlock) to house and power CleanSpark's mining equipment.
- Issues raised in Culper Research's reports.
- Gustavo Lima Calderia de Andrada's connections with Block Data, ATL, and CleanSpark.
- Bernardo Schucman's connections with Block Data, ATL, and CleanSpark.
- Virtual Citadel's business relationship with Virtual Citadel.

Defendants anticipate that they will seek discovery into the following subjects:

- The claims and defenses set forth in Plaintiff's Amended Class Action Complaint (the "Complaint").
- Matters relevant to class certification.
- The identities of the "confidential witnesses" cited in the Complaint.
- The claims asserted by lead Plaintiff for an alleged class.
- The representatives of any alleged class.
- Alleged damages.
- Communications between lead Plaintiff and/or class representatives.

- Any records regarding lead Plaintiff's and/or class representatives' involvement in other litigation.
- Documents in the possession of any of the “confidential witnesses” cited in the Complaint.
- Communications between Plaintiff's representatives and the “confidential witnesses.”
- Documents in lead Plaintiff's and/or class representatives' possession constituting or regarding communications with Defendants or other former or current CleanSpark employees.
- Expert witness reports or testimony relied on by Plaintiff.
- Whether Defendants participated in a scheme to defraud.
- Whether the market price of CleanSpark's securities was artificially inflated.
- Whether Defendants acted with scienter.
- Whether statements made by Defendants during the Class Period misrepresented and/or omitted material facts about CleanSpark and its business.

Defendants reserve the right to amend and/or supplement this list as discovery proceeds and new information is ascertained.

C. Electronically Stored Information

The Parties have discussed discovery of electronically stored information (“ESI”). The Parties acknowledge their obligation to take reasonable and proportionate steps to preserve relevant and discoverable ESI within their possession, custody, or control. The Parties agree to produce any properly requested electronic data, assuming such data is not otherwise protected by work product or attorney-client privileges or otherwise objectionable. The Parties further agree

to cooperate to limit the cost and time required in making such electronic disclosures, including by the use of search terms, which the parties agreed to meet and confer about at the appropriate time.

The parties have prepared a Stipulation and [Proposed] Order Regarding the Production of Discovery, submitted herewith.

D. Depositions & Interrogatories

Plaintiffs anticipate needing to take more than 10 depositions permitted under Fed. R. Civ. P. 30(a)(2)(i). The Parties agree to meet and confer in good faith regarding any potential increase in the number of depositions and/or interrogatories per side, if and when appropriate, after discovery has progressed further.

E. Protective Order Under Rule 26(c)

The parties have prepared a draft Stipulation and [Proposed} Confidentiality Order, submitted herewith.

F. Settlement Issues

The Parties both believe that early resolution of this case may be appropriate, and will endeavor to discuss this issue as the case progresses.

G. Trial

At this time, the Parties anticipate trial to take 10 days. The Parties reserve the right to amend this estimate as the case progresses.

Dated: April 24, 2023

/s/ Gregory B. Linkh

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SO ORDERED


LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

5/1/23

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